

**REVENUE DEPARTMENT[701]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 42, “Adjustments to Computed Tax and Tax Credits,” Iowa Administrative Code.

Currently, Iowa offers an individual income tax credit for certain geothermal heat pump property installed in the taxpayer’s residence during the tax year. The credit is calculated as a percentage of the federal individual income tax credit available for the same type of property. As of the date of submission of this Notice of Intended Action, the federal credit is set to expire on December 31, 2016. In anticipation of the probable expiration of the federal credit, the 2016 Iowa legislature created a separate Iowa credit that will allow Iowa taxpayers a credit for 10 percent of the qualified costs of installing these same types of geothermal heat pump systems during years in which the federal credit is not available. This amendment is intended to incorporate this new credit into the existing rules and to clarify the relationship between the two Iowa credits for geothermal heat pump property and the corresponding federal credit.

Interested persons may make written comments on the proposed amendment on or before November 1, 2016. Written comments on the proposed amendment should be directed by mail to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306-0457; or by e-mail to [ben.clough@iowa.gov](mailto:ben.clough@iowa.gov). Persons who wish to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, by telephone at (515)725-2176 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by November 1, 2016.

The new tax credit is expected to reduce both general fund revenue and the local option income surtax for schools beginning in fiscal year 2018.

Any person who believes that the application of the discretionary provisions of these rules would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

After analysis and review of this rule making, the Department finds that this amendment is not likely to have a significant impact on jobs.

This amendment is intended to implement 2016 Iowa Acts, House File 2468.

The following amendment is proposed.

Amend rule 701—42.47(422) as follows:

**701—42.47(422) Geothermal heat pump tax credit credits.** For tax years beginning on or after January 1, 2012, a geothermal heat pump tax credit is available for residential property located in Iowa. There are two distinct Iowa geothermal heat pump tax credits. Each Iowa credit is described in detail below. The Iowa credit described in subrule 42.47(1) is only available for years in which the federal credit provided in Section 25D(a)(5) of the Internal Revenue Code is also available. The Iowa credit described in subrule 42.47(2) is only available for years in which the federal credit provided in Section 25D(a)(5) of the Internal Revenue Code is not available.

**42.47(1) Calculation of credit** Geothermal heat pump tax credit for years in which the federal credit is available.

a. Availability of the credit. For tax years beginning on or after January 1, 2012, in which the federal residential energy efficient property tax credit for geothermal heat pumps provided in Section 25D(a)(5) of the Internal Revenue Code is available, an Iowa geothermal heat pump tax credit, as described in this subrule, is also available for residential property located in Iowa.

b. Eligibility for the credit. To be eligible for the credit described in this subrule, all of the following requirements must be met:

1. The geothermal heat pump must be eligible for the federal residential energy efficient property tax credit provided in Section 25D(a)(5) of the Internal Revenue Code.

2. The taxpayer must claim the federal residential energy efficient property tax credit.

3. The geothermal heat pump must be installed on or after January 1, 2012, to qualify for the Iowa credit. If the taxpayer installed a geothermal heat pump and initially reported the federal tax credit for a tax year beginning prior to January 1, 2012, no Iowa credit will be allowed.

EXAMPLE: A taxpayer reported a \$6,000 geothermal tax credit on the 2011 federal return due to an installation that was completed in 2011. The taxpayer applied \$2,000 of the credit on the taxpayer's 2011 federal return since the federal tax liability was \$2,000. The remaining \$4,000 of federal credit was applied on the 2012 federal return. No credit will be allowed on the 2012 Iowa return since the installation was completed before January 1, 2012.

c. Calculation of the credit. The credit described in this subrule is equal to 20 percent of the federal residential energy efficient property tax credit allowed for geothermal heat pumps provided in Section 25D(a)(5) of the Internal Revenue Code. ~~The As of the publication date of the Notice proposing to amend these rules, October 12, 2016, the federal residential energy efficient tax credit for geothermal heat pumps is currently allowed for installations that are completed on or before December 31, 2016. Therefore, the corresponding Iowa tax credit will be available for the 2012 to 2016 tax years. The geothermal heat pump must be installed on or after January 1, 2012, to qualify for the Iowa credit. If the taxpayer installed a geothermal heat pump and initially reported the federal tax credit for a tax year beginning prior to January 1, 2012, no Iowa credit will be allowed.~~ If the federal residential energy efficient property tax credit for geothermal heat pumps is extended into additional tax years, absent action by the Iowa legislature to repeal the Iowa credit, the Iowa credit described in this subrule will continue to be available for each year in which the federal residential energy efficient property tax credit for geothermal heat pumps is available.

EXAMPLE: A taxpayer reported a \$6,000 geothermal tax credit on the 2011 federal return due to an installation that was completed in 2011. The taxpayer applied \$2,000 of the credit on the taxpayer's 2011 federal return since the federal tax liability was \$2,000. The remaining \$4,000 of federal credit was applied on the 2012 federal return. No credit will be allowed on the 2012 Iowa return since the installation was completed before January 1, 2012.

**42.47(2) d.** Claiming the tax credit. The geothermal heat pump tax credit will must be claimed on Form IA 148, Tax Credit Schedule. The taxpayer must include a valid copy of the taxpayer's federal Form 5695, Residential Energy Credits, with any the Iowa tax return for the tax year in which the geothermal heat pump was installed claiming the geothermal heat pump credit described in this subrule.

e. Refundability. Any credit in excess of the taxpayer's tax liability is nonrefundable.

f. Carryforward. Any tax credit in excess of the taxpayer's tax liability for the tax year may be credited to the taxpayer's tax liability for the following ten years or until used depleted, whichever is the earlier.

g. Transferability. The credit may not be transferred to any other person.

**42.47(2)** Geothermal tax credit for years in which the federal credit is not available.

a. Availability of the credit. For tax years beginning on or after January 1, 2017, in which the federal residential energy efficient tax credit for geothermal heat pumps is not available, an Iowa geothermal tax credit is available for certain geothermal heat pump property installed in this state.

b. Definitions.

"Qualified geothermal heat pump property" means any equipment that meets the requirements of the federal Energy Star Program in effect at the time that the expenditure for such equipment is made and uses the ground or groundwater as either:

1. A thermal energy source to heat the dwelling unit of the taxpayer, or
2. A thermal energy sink to cool the dwelling unit of the taxpayer.

“Qualified geothermal heat pump property expenditure” means an expenditure for qualified geothermal heat pump property installed on or in connection with a dwelling unit that is:

1. Located in Iowa, and
2. Used as a residence by the taxpayer.

c. Eligibility for the credit. To be eligible for the credit described in this subrule, the qualified expenditures must be incurred:

1. To install qualified geothermal heat pump property at a location in Iowa that is used as a residence by the taxpayer, and
2. During the tax year for which the credit is claimed. Qualified geothermal heat pump property expenditures are deemed to have been made on the date the installation is complete. In the case of new construction or reconstruction, the expenditures are deemed to have been made on the date the taxpayer first began to use the structure as the taxpayer’s residence.

d. Calculation of the credit. The credit described in this subrule is equal to 10 percent of the qualified geothermal heat pump property expenditures made by the taxpayer during the tax year. This credit is not available during any year in which the federal credit may be claimed, and no expenditure used to calculate the federal residential energy efficient property tax credit may be used to calculate the amount of the Iowa geothermal tax credit described in this subrule. For information on an Iowa tax credit that is available for years in which the federal residential energy efficient property tax credit for geothermal heat pump property is also available, see subrule 42.47(1).

e. Multiple housing cooperatives and horizontal property regimes. In the case of a taxpayer whose dwelling unit is part of a multiple housing cooperative organized under Iowa Code chapter 499A or a horizontal property regime under Iowa Code chapter 499B, the taxpayer shall be treated as having made the taxpayer’s proportionate share of any qualified geothermal heat pump property expenditures made by the cooperative or the regime.

f. Claiming the credit. The geothermal credit described in this subrule must be claimed on Form IA 148, Tax Credit Schedule, and included with the tax return for the tax year in which the expenditures are deemed to have been made. In order to claim this credit, a taxpayer must also complete the form provided by the department to substantiate eligibility for the tax credit claimed and include any other information the department may require.

g. Refundability. Any credit in excess of the taxpayer’s tax liability is nonrefundable.

h. Carryforward. Any tax credit in excess of the taxpayer’s tax liability for the tax year may be credited to the taxpayer’s tax liability for the following ten years or until depleted, whichever is earlier.

i. Transferability. The credit may not be transferred to any other person.

This rule is intended to implement 2012 Iowa Acts, Senate File 2342, section 4 Iowa Code section 422.11I and 2016 Iowa Acts, House File 2468.